THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.2569 OF 2006

Dated: 13-02-2006

Between

Imamuddin S/o. Kamalauddin

Occ: Business, R/o.20-6-466,

Shah Ali Banda, Hyderabad

and others.

...PETITIONERS

AND

Municipal Corporation of Hyderabad

Rep by its Commissioner, Tank Bund,

Hyderabad and another.

...RESPONDENTS

ORDER:

Petitioners seek a Writ of Mandamus to declare the action of the respondents in demolishing their peaceful possession and enjoyment of the shop bearing Nos.20-6-466, 20-6-467 & 20-6-468 situated at Shah Ali Banda, Hyderabad as illegal and arbitrary.

Heard the learned counsel for the petitioners as well as the learned standing counsel for the respondents.

Learned counsel for the petitioners submits that the petitioners are the absolute owners of

the aforementioned properties vide different registered sale deeds. The main grievance of the petitioners is that the respondents have not issued any notice before deciding to demolish the said shops and they are trying to demolish the shops for the purpose of widening the road without acquiring the property as contemplated under Chapter V of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act') or under the Land Acquisition Act, without following due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating land acquisition proceedings, which action is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Act.

No doubt widening/laying of the road is in the public interest. While laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. This Court disposed of a number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish or take away the property of the petitioners without following due process of law either under Section 146 or under
Section 147 of the Act or by way of private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

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V. ESWARAIAH, J

February 13, 2006

DSK